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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance submitted pursuant to General Assembly resolution 71/179

Note by the Secretariat

In his report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance addresses developments that he has identified with regard to the continuing human rights and democratic challenges posed by extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements. The Special Rapporteur remains deeply concerned by the problem of extremist ideologies, including populist movements and continued expressions of glorification of Nazism by some groups, in a global economic context where the gap between the rich and the poor is widening and where the global distribution of wealth has never been so unequal.

The Special Rapporteur notes his past recommendations to the General Assembly and to the Human Rights Council made on the issue remain applicable.

The Special Rapporteur summarizes the general trends identified to date with regard to the human rights and democratic challenges that extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements, continue to pose. He underlines the link between populist movements and extremist ideologies and warns about the dangers to vulnerable groups and minorities. He concludes the report by reiterating his previous conclusions and recommendations.

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I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to General Assembly resolution 71/179, in which the Assembly requested the Special Rapporteur to prepare, for submission to the Council at its thirty-fifth session, a report on the implementation of that resolution on combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, based on the views of Governments and non-governmental organizations. The Assembly also requested another report to be submitted to it, at its seventy-second session, on the same matter.

2. The General Assembly specifically expressed deep concern about the glorification, in any form, of the Nazi movement, neo-Nazism and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations glorifying the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement participants in national liberation movements.

3. The General Assembly also re-emphasized the recommendation of the Special Rapporteur that any commemorative celebration of the Nazi regime, its allies and related organizations, whether official or unofficial, should be prohibited by States (see A/71/325, para. 68), emphasizing that such manifestations do injustice to the memory of the countless victims of the Second World War and negatively influence children and young people. In this regard, the Special Rapporteur stresses the importance for States to take measures in accordance with international human rights law to counteract any celebration of the Nazi SS organization and all its integral parts, including the Waffen SS. Failure by Member States to effectively address such practices is incompatible with their obligations under the Charter of the United Nations.

4. Furthermore, in its resolution 71/179, the General Assembly expressed concern about recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and in that regard urged Member States to fully comply with their relevant obligations, inter alia, under article 34 of the protocol additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts.

5. In addition, the General Assembly noted with concern the increase in the number of racist incidents worldwide, including the rise of skinhead groups, which have been responsible for many such incidents, as well as the resurgence of racist and xenophobic violence targeting, inter alia, persons belonging to national or ethnic, religious and linguistic or other minorities, including arson attacks on houses and vandalizing of schools and places of worship.

6. The General Assembly reaffirmed that such acts may be qualified as falling within the scope of the Convention, that they may not be justified when they fall outside the scope of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of expression, and that they may fall within the scope of article 20 of the International Covenant on Civil and Political Rights potentially being subject to certain restrictions, as set out in articles 19 and 21-22 of the Covenant.

7. In the same resolution, the General Assembly expressed deep concern about commercial advertising attempts aimed at exploiting the suffering of the victims of war

crimes and crimes against humanity committed during the Second World War by the Nazi regime. It also stressed that the practices described in its resolution 71/179 do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and by those who fought against the anti-Hitler coalition and collaborated with the Nazi movement, and may negatively influence children and young people. Failure by States to effectively address such practices is incompatible with the obligations of States Members of the United Nations under its Charter, including those related to the purposes and principles of the Organization.

8. The General Assembly also recalled the recommendation of the Special Rapporteur presented at the sixty-fourth session of the Assembly, in which he emphasized the importance of history classes in teaching the dramatic events and human suffering which arose out of the adoption of ideologies such as Nazism and Fascism (see A/64/295, para. 104). It further stressed the importance of other positive measures and initiatives aimed at bringing communities together and providing them with space for genuine dialogue, such as round tables, working groups and seminars, including training seminars for State agents and media professionals, as well as awareness-raising activities, especially those initiated by civil society representatives, which require continued State support.

9. In the present report, and in accordance with the practice established in previous reports, the Special Rapporteur outlines once again the trends he has identified over the years with regard to the continuing human rights and democratic challenges posed by extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements, in the context of the current economic crisis. He notes that, regrettably these trends and patterns have continued unabated during the reporting period.

II. Information received relating to the existence of extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements

10. During the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, and as expressed in the Durban Declaration and Programme of Action which followed, States recognized that political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination were incompatible with democracy and accountable governance.

11. The Special Rapporteur notes that extremist political parties, movements and groups have continued to gain influence in several countries and regions. The continued effects of the global financial and economic crisis that started in 2008 and of globalization have led to the most unequal distribution of wealth in recent history and to the rise of populist and extremist political movements and ideas that easily target the most vulnerable, such as migrants, refugees and minority groups.

12. The European Consortium for Political Research, in a recent publication, underlined the link between the effects of the economic crisis and the rise of populist movements and ideas:

> In several countries, new political actors emerged forcefully during the crisis on both the radical right and the radical left, … while already established parties of the radical right were reinforced. In addition, some countries saw the rise of new populist contenders rallying against the old political order. Everywhere, the crisis contributed to the erosion of existing party systems. In the countries hardest hit, the economic crisis developed into a deep political crisis. In some countries, it gave rise to intense social unrest, including mass mobilization and the occasional use of street violence, and even led to the rise of political extremism on both the right and the left. In other countries, it caused tectonic changes in the established party system architecture … and even party system collapse. We should not forget, however, that

> populism … has been a long-term process that has already been well under way at the time of the … Great Recession. [1]

13. The Special Rapporteur on extreme poverty and human rights, Philip Alston, also raised the alarm in his 2015 report to the Human Rights Council on the rising inequalities of income and distribution of wealth, highlighting the fact that economic inequality was often accompanied by political inequality, meaning that not all citizens were able to equally exercise their democratic rights (see A/HRC/29/31, paras. 8, 10 and 19).

14. Similarly, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Juan Pablo Bohoslavsky, in his report on his visit to institutions of the European Union, warned about the growing inequalities of income and wealth in the European Union and made reference to a recent report by the European Union Agency for Fundamental Rights, that deplored not only an increase in the number of persons at risk of poverty or social exclusion and in homelessness, but also warned about increased social unrest and violent expressions of extremist ideology and xenophobia in the context of the economic crisis, impairing civil and political rights (see A/HRC/34/57/Add.1, para. 40).

15. In this regard, the Special Rapporteur notes that, in two distinct political campaigns in Western Europe and North America, populist ideology gained the upper hand and resulted in a rise in attacks against migrants, refugees and members of minority communities following the result of the votes.

16. He expresses continuous and deep concern at the persistence of violent incidents based on nationalism, racism, xenophobia and related intolerance worldwide.

17. The Special Rapporteur is deeply concerned about the growing influence of extremist political parties, movements or groups in several countries. In Eastern Europe and North America, there has been a continuous trend of parliamentary seats as well as leading governmental positions won by representatives of extremist political parties, or by political leaders with populist views. A number of far-right and populist political parties and movements have gained ground in local and national parliamentary elections in these regions as well as in Western European countries, including in the European Parliament. The Special Rapporteur expresses grave concern about the fact that such parties are gaining influence, as this trend has resulted in the implementation of discriminatory measures, policies and bills at the local or national levels. He recalls the importance for democratic parties to promote programmes and activities based on the respect of human rights and fundamental freedoms. According to information received, some European Governments have contributed to fuelling hatred and hostility towards migrants and minority groups, for example through controversial populist campaigns and racist and xenophobic public statements.

18. The Special Rapporteur expresses grave concern at the increase of populist language and hate speech in political discourse, even among mainstream political parties. Allegations regarding a racist statement by a Member of Parliament in a Southern European country have been received, as well as allegations of incitement to discrimination and violence against minority groups by a prominent member of a political party in South-East Asia. As underlined in his thematic report of 2016 (A/HRC/29/47), the Special Rapporteur expresses concern at the coalitions formed between mainstream and extremist parties, and recalls that mainstream political parties should clearly and publicly condemn expressions of racism, xenophobia and related violence.

19. The Special Rapporteur also expresses concern regarding the implementation of specific counter-terrorism measures, especially in certain Western countries. Such measures often grant great discretionary power to police forces, especially when it comes to identity checks, and could lead to further discrimination and violence towards minority groups,

[1] Hanspeter Kriesi and Takis S Pappas, eds., *European Populism in the Shadow of the Great Recession*. (Colchester, ECPR Press, 2015).

including a rise in discriminatory profiling measures by law enforcement officials targeted at migrants and minority communities.

20. The targeting of vulnerable groups, such as migrants and refugees, is still a growing phenomenon. Muslims and Jews, persons of African descent, indigenous people and members of the Roma community continue to be stigmatized and subjected to violence, insecurity and intolerance through arson attacks on houses or acts of vandalism on places of worship and schools. As already stated in previous reports, minority groups are increasingly being blamed for high unemployment rates, cuts in social benefits and rising poverty.

21. The Special Rapporteur recalls that such expressions of racism and xenophobia, as well as the use of extremist rhetoric for the purpose of re-election, should be condemned. Moreover, political leaders should deal appropriately with social and economic issues, especially during periods of economic recession. According to information received, Muslims have been stigmatized and Muslim women wearing headscarves have been threatened. Some attacks on imams and mosques have also been reported in certain regions.

22. The Special Rapporteur has also received reports on alleged discriminatory laws and policies against the Roma community, especially in Eastern Europe. The level of discrimination, violence and threat faced by indigenous peoples, especially in some Latin American countries, is also worrisome. The Special Rapporteur is deeply concerned by the stigmatization of migrants and refugees and strongly condemns the building of walls and political barriers against people in need of international protection. According to information received, refugees, migrants and asylum seekers have faced mass expulsions, threats to their physical and mental well-being, "pushbacks" and have been refused entry, in violation of the principle of non-refoulement, particularly in Europe and North Africa. The Special Rapporteur also notes an important increase in acts of ill-treatment and poor conditions in reception centres and in transit zones worldwide.

23. The Special Rapporteur remains concerned about allegations of excessive use of force against unarmed migrants, refugees and asylum seekers, either by law enforcement officers or police forces in the context of forced evacuations, arrests and mass expulsions. Cases of extremism in police forces and allegations of torture by officers have also been reported. Allegations of police forces openly promoting far-right and xenophobic ideas in the exercise of their official positions as guardians of public order and civil servants of the State have been brought to the attention of the Special Rapporteur (see A/HRC/23/24, A/HRC/29/47 and A/HRC/32/49).

24. The reluctance of some officers to intervene to stop harassment, verbal abuse or violent attacks and/or to receive complaints from victims of racist and xenophobic crimes, particularly migrants and those from minority groups, and to investigate those incidents, is particularly worrying. These different elements reinforce the existing trend of unreported racist crimes, creating a climate of fear that results in for victims being reluctant to report incidents to the appropriate authorities, especially if they are in a precarious or irregular situation. This lack of trust is exacerbated by language barriers and ignorance of their rights (see A/HRC/23/24 and A/HRC/29/4), and creates an atmosphere of impunity for perpetrators of such crimes.

25. The Special Rapporteur recommends that States and civil society organizations establish accurate and up-to-date data, disaggregated by sex and ethnicity, particularly regarding irregular migrants and asylum seekers, as well as detailed systems for recording, reporting and monitoring such incidents and for encouraging victims to report them. The Special Rapporteur is also concerned at allegations of increasing police involvement in crimes of sexual and gender-based violence against women of African descent and women from ethnic minorities, which often go unreported or are not thoroughly investigated.

26. The Special Rapporteur also expresses concern at the glorification of Nazi movements in specific areas. He notes the recurrence of populist practices that fuel contemporary forms of racism and pose a challenge to the protection and consolidation of democracy and human rights, and the protection of vulnerable groups of individuals against racist and xenophobic crimes.

27. In this regard, the Special Rapporteur received allegations of incidents that glorify and promote Nazism, such as pro-Nazi graffiti and paintings of swastikas on monuments dedicated to victims of the Holocaust or in Jewish schools. He reiterates his condemnations of such acts and reminds States that commemorations of the Nazi regime, in all forms, should be prohibited.

28. The Special Rapporteur recalls the International Day of Commemoration in Memory of the Victims of the Holocaust and the importance of education to prevent all forms of anti-Semitism and discrimination, as stated by the United Nations High Commissioner for Human Rights in his statement on 27 January 2017.[2] Education is one of the most efficient means to combat Holocaust denial and revisionism by extreme right-wing groups.

29. The Special Rapporteur recalls that it is necessary to criminalize acts of belittlement or denial, as such acts create a favourable environment for the dissemination and rehabilitation of Nazism and other extremist ideologies, and constitute hate speech under article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination.

30. The Special Rapporteur raises concerns on the use of the Internet and social media by extremist parties and groups, including populist movements, to spread intolerant hate-speech and gain supporters worldwide by posting public materials that fuel racism and violence. The Special Rapporteur expresses serious concern regarding the lack of sanctions in cases of violation of legislation related to social media in many States. Online hate speech is rarely sanctioned by justice systems and conviction rates are very low. The Internet and social media are also used to spread hate speech and discriminatory political discourse based on race, religion and, in particular, against minority groups, refugees, Muslims, Jews and members of the Roma community.

31. Allegations of violent acts perpetrated by certain populist, far-right and neo-Nazi groups against minority groups often involve homosexual, bisexual, lesbian and transgender individuals. The same groups that attack and discriminate racial and ethnic minorities are also involved in attacks against individuals based on their sexual identity.

32. The Special Rapporteur recalls the need to promote tolerance, respect of diversity and common understanding. The multiplicity of components of each individual's identity can lead to intersectional discrimination, which needs to be addressed by States. The Special Rapporteur notes with concern the growing trend in underreported racial crimes against homosexual, bisexual, lesbian and transgender persons, which can be considered as interlinked forms of discrimination.

33. The Special Rapporteur has already expressed grave concern regarding the increasing use of racist symbols, slogans and banners during sports events (see A/HRC/26/50, A/HRC/29/47 and A/HRC/32/49). Considering the influence of professional athletes on young people and the increase in racist incidents, the Special Rapporteur urges States to take all measures necessary to address this problem and the violence spread by extremist groups of supporters. He would like to recall the provisions of Human Rights Council resolution 13/27 regarding the need for States, sport federations and regional or international organizations to intensify the fight against racism in sport, as sport is and should remain a means of bringing cultures together, and a way to overcome social and political divisions.

III. Conclusions and recommendations

34. **The Special Rapporteur reiterates the recommendations contained in his previous reports to the Human Rights Council and the General Assembly, as they remain valid and current. They are presented again below, clustered by thematic area for easy reference.**

[2] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21124&LangID=E.

A. Political measures

35. **While the Special Rapporteur notes with appreciation that several States have made significant efforts to counter extremist political parties, groups and movements, he reiterates the need for greater vigilance and condemnations of all messages disseminating ideas based on racial superiority or hatred. Political leaders and parties must be aware of their moral duty and should use their leading position to promote tolerance and respect. The Special Rapporteur also welcomes the increase in good practices that should be exchanged among all actors working in this field. However, important challenges remain and a comprehensive approach based on a solid legal framework and completed by other measures, such as education, awareness-raising programmes and a victim-centred approach, should be further developed. States should also address the increasing discrepancy in distribution of income and wealth and realize that the consequences of this disparity fuels populist rhetoric and extremist ideologies. (See A/HRC/23/24, para. 37, A/HRC/26/50, para. 50, A/HRC/29/47, paras. 43-44, and A/HRC/32/49, paras. 17-18.)**

B. Legislative measures

36. **The Special Rapporteur appreciates the information received regarding the ratification of a range of instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, and the inclusion of the Convention in national legal and constitutional frameworks. He calls upon States that have not yet done so to ratify the Convention and to make the declaration under article 14. This will allow the Committee on the Elimination of Racial Discrimination to receive and consider communications from groups or individuals claiming to be victims of a violation by a State party of any of the rights set forth in the Convention.**

37. **The Special Rapporteur would like to recall that paragraph 13 of the outcome document of the Durban Review Conference states that any advocacy of national racial or religious hatred should be prohibited by law, as should be the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as all acts of violence or incitement to such acts.**

38. **The Special Rapporteur notes that several States have introduced into their criminal codes a provision stating that the commission of any offence with racist, xenophobic, anti-Semitic or homophobic motivations or aims constitutes an aggravating circumstance attracting heavier sanctions, not only for their instigators but also their followers.**

39. **The Special Rapporteur would, however, like to underline the need for the States to ensure the full and effective implementation of legal, policy and institutional measures protecting minority groups. States should also ensure that these groups are being effectively granted, without discrimination of any kind, the right to security, access to justice, adequate reparation, legal aid and medical and psychological assistance. States should also facilitate better reporting of such crimes.**

40. **States have an obligation to prosecute the perpetrators of crimes with racist, xenophobic or anti-Semitic motivations, as well as to fight against impunity. Therefore, States should ensure prompt and thorough investigation into such crimes, and that those responsible are adequately sanctioned. (See A/HRC/23/24, para. 31, A/HRC/26/50, paras. 52-53, A/HRC/29/47, paras. 45-47, and A/HRC/32/49, paras. 19-21.)**

C. Education and capacity-building

41. **As stated in his previous reports, the Special Rapporteur would like to recall that formal and non-formal education remains one of the most effective means of countering the negative influence that extremist movements, political parties and groups may have on young people. States should recognize the importance of**

education in combating racism, racial discrimination, xenophobia and related intolerance, in deconstructing prejudices and in promoting the principles of respect and tolerance for ethnic, religious and cultural diversity (see A/HRC/23/56, para. 57).

42. The Special Rapporteur recommends the implementation of comprehensive and mandatory human rights trainings for law enforcement officials and members of the judiciary, with a focus on racist and xenophobic crimes perpetrated by individuals linked to extremist political parties, groups and movements. This would reinforce their capacity to address crimes motivated by racist, xenophobic, anti-Semitic or homophobic biases. (See A/HRC/26/50, para. 54, A/HRC/29/47, paras. 49-50, and A/HRC/32/49, para. 23.)

D. Holocaust denial

43. The Special Rapporteur reiterates his absolute condemnation of any denial or attempt to deny the Holocaust, as well as all manifestations of religious intolerance, incitement, harassment or violence against persons or communities based on ethnic origin or religious belief. He urges States to implement effective legislative and educational measures in order to prevent revisionism of the Second World War, the denial of the Holocaust and the Nazi genocide. He recalls the importance of the preservation of the sites that served as Nazi death camps, concentration and forced labour camps and prisons. (See A/HRC/29/47, para. 56, and A/HRC/32/49, para. 24.)

E. Disaggregated data

44. The Special Rapporteur maintains his previous recommendations concerning the importance of collecting disaggregated data and statistics on racist, xenophobic, anti-Semitic and homophobic crimes in order to identify the types of offences committed, the characteristics of the victims and of the perpetrators and whether they are affiliated with an extremist political party, movement or group. States should allocate adequate resources to improve the quality of data-collection systems while involving the civil society in the process, which is to be undertaken in such a way as to guarantee the protection of privacy. The collection of such data would enhance a better understanding of the phenomenon and identify effective measures to be taken to address these crimes. (See A/70/335, paras. 84-92.)

F. Internet and social media

45. The Special Rapporteur reiterates his concerns regarding the increasing use of the Internet and social media to promote and disseminate racist content. All opportunities should be taken in order to counter the dissemination of such ideas based on racial superiority or hatred and to promote the principles of respect, non-discrimination, diversity and democracy. The Special Rapporteur would like to recall the States' obligations under articles 19 and 20 of the International Covenant on Civil and Political Rights. States should adopt measures to counter extremist ideas and biases, while strengthening freedom of expression, which plays a crucial role in promoting democracy and combating racist and xenophobic ideologies. (See A/HRC/26/49, paras. 65-70.)

G. Sport

46. The Special Rapporteur would like to emphasize the key role of sports in promoting cultural diversity, tolerance and respect. He would also like to recall paragraph 218 of the Durban Programme of Action, which urges States, in cooperation with the International Olympic Committee, intergovernmental organizations and international and regional sports federations, to intensify the fight against racism in sport by educating the youth of the world through sport practised

without discrimination of any kind and in the Olympic spirit. The Special Rapporteur reiterates his recommendations on strengthening measures to prevent xenophobic incidents at sporting events. (See A/69/340, paras. 61 and 64-66.)

H. Civil society

47. **As stated in his previous reports (see A/HRC/26/50, para. 58, A/HRC/29/47, para. 57, A/HRC/32/49, para. 28, and A/71/325, para. 81), the Special Rapporteur recalls the importance of strengthening cooperation with civil society and regional and international human rights mechanisms to counter extremist political parties, movements and groups. Civil society organizations and institutions play an important part in collecting data and information as they work closely with victims. Their contribution should be emphasized and the sharing of good practices should be reinforced among all relevant stakeholders. The Special Rapporteur reiterates his recommendations concerning the development of appropriate programmes by national human rights institutions to promote tolerance and respect for all and to collect all relevant information. (See also A/71/301, paras. 84-85.)**